

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

DR. GEORGE RICHARDSON,	§	
ROSALIE WEISFELD, AUSTIN	§	
JUSTICE COALITION, COALITION	§	
OF TEXANS WITH DISABILITIES,	§	
MOVE TEXAS CIVIC FUND,	§	
LEAGUE OF WOMEN VOTERS	§	
OF TEXAS and AMERICAN GI	§	
FORUM OF TEXAS, INC.	§	
<i>Plaintiffs</i>	§	Civil Case No. 5:19-cv-00963
VS.	§	
TEXAS SECRETARY OF STATE,	§	
TRUDY HANCOCK, in her official	§	
Capacity as BRAZOS COUNTY	§	
ELECTIONS ADMINISTRATOR and	§	
PERLA LARA in her official	§	
Capacity as CITY OF MCALLEN,	§	
TEXAS SECRETARY,	§	
<i>Defendants</i>	§	

**DEFENDANT Perla Lara in her Official Capacity as City of McAllen,  
Texas Secretary's Answer TO PLAINTIFFS' ORIGINAL  
COMPLAINT**

Defendant Perla Lara in her Official Capacity as City of McAllen, Texas Secretary (“Defendant”) respectfully submits this answer to Plaintiffs’ Original Complaint, Dkt. 1. Pursuant to Federal Rule of Civil Procedure 8(b), Defendant denies each and every allegation in the Original Complaint except those expressly admitted herein. The headings and numbered paragraphs below correspond to the

sections and numbered paragraphs in the Complaint and are reproduced in this Answer for organizational purposes only. Defendant denies any substantive allegations contained in those headings unless otherwise expressly admitted herein, and responds to the numbered allegations as follows:

**PLAINTIFFS' ORIGINAL COMPLAINT**

As to Plaintiffs' introductory paragraph, admits insofar as the Complaint speaks for itself as to the Plaintiffs in this lawsuit and the nature of their allegations. Denies that Plaintiffs are entitled to any relief herein, denies any violations of the law as to Plaintiffs, and denies this paragraph to the extent it contains any further allegation of fact requiring a response.

**THE NATURE OF THE CASE**

1. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant denies any violation of the law with respect to Plaintiffs. Defendant lacks sufficient knowledge or information to admit or deny any factual allegation in the balance of this paragraph requiring a response and, on that basis, denies.

2. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits insofar as the Texas Election Code

speaks for itself. Defendant lacks sufficient knowledge or information to admit or deny the legislative intent behind the mail-in ballot provisions, and on that basis denies this paragraph's assertion about what these provisions "should" do. Otherwise, denies.

3. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant lacks sufficient knowledge or information to admit or deny and, on that basis, denies.

4. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant denies.

5. Denies.

6. Denies.

7. Admits insofar as the Complaint speaks for itself as to Plaintiffs' allegations and the relief they request in this lawsuit. Denies that Plaintiffs are entitled to any relief, denies that Defendant has violated any law with respect to Plaintiffs, and denies this paragraph in all other respects.

#### **JURISDICTION AND VENUE**

8. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains allegations of fact requiring a response, admits insofar as the cited statutes speak for

themselves. Otherwise, denies.

9. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains allegations of fact requiring a response, admits that the Secretary of State conducts business in this District and admits insofar as the cited statute speaks for itself. Defendant lacks sufficient knowledge or information to admit or deny whether Plaintiffs seek recovery based upon events or omissions that occurred in this District and, on that basis, denies this paragraph in all other respects.

## **PARTIES**

### Individual Plaintiffs

10. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant denies that Richardson is entitled to any relief and denies that Defendant has violated any law with respect to Richardson. Defendant lacks sufficient knowledge or information to admit or deny any factual allegation in the balance of this paragraph requiring a response and, on that basis, denies.

11. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant denies that Weisfeld is

entitled to any relief and denies that Defendant has violated any law with respect to Weisfeld. Defendant lacks sufficient knowledge or information to admit or deny any factual allegation in the balance of this paragraph requiring a response and, on that basis, denies.

Austin Justice Coalition

12. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant denies that AJC is entitled to any relief and denies that Defendant has violated any law with respect to AJC. Defendant lacks sufficient knowledge or information to admit or deny any factual allegation in the balance of this paragraph requiring a response and, on that basis, denies.

13. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant lacks sufficient knowledge or information to admit or deny and, on that basis, denies.

14. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant lacks sufficient knowledge or information to admit or deny allegations regarding AJC's activities or expenditures

and, on that basis, denies those allegations. Denies that Defendant has violated any law with respect to AJC or caused any injury to AJC and denies this paragraph in all other respects.

Coalition of Texans with Disabilities

15. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant denies that CTD is entitled to any relief and denies that Defendant has violated any law with respect to CTD or its members. Defendant lacks sufficient knowledge or information to admit or deny any factual allegation in the balance of this paragraph requiring a response and, on that basis, denies.

16. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant lacks sufficient knowledge or information to admit or deny and, on that basis, denies.

17. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant lacks sufficient knowledge or information to admit or deny and, on that basis, denies.

18. This paragraph contains assertions of law, conclusory statements, and/or

argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant lacks sufficient knowledge or information to admit or deny allegations regarding CTD's activities or expenditures and, on that basis, denies those allegations. Denies that Defendant has violated any law with respect to CTD (or its members) or caused any injury to CTD (or its members) and denies this paragraph in all other respects.

19. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, denies.

MOVE Texas Civic Fund

20. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant denies that MOVE is entitled to any relief and denies that Defendant has violated any law with respect to MOVE. Defendant lacks sufficient knowledge or information to admit or deny any factual allegation in the balance of this paragraph requiring a response and, on that basis, denies.

21. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant lacks sufficient knowledge or

information to admit or deny and, on that basis, denies.

22. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant lacks sufficient knowledge or information to admit or deny and, on that basis, denies.

23. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant lacks sufficient knowledge or information to admit or deny allegations regarding MOVE's activities or expenditures and, on that basis, denies those allegations. Denies that Defendant has violated any law with respect to MOVE or caused any injury to MOVE and denies this paragraph in all other respects.

League of Women Voters of Texas

24. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant denies that LWV is entitled to any relief and denies that Defendant has violated any law with respect to LWV or its members. Defendant lacks sufficient knowledge or information to admit or deny any factual allegation in the balance of this paragraph requiring a response and, on that basis, denies.

25. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant lacks sufficient knowledge or information to admit or deny and, on that basis, denies.

26. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant lacks sufficient knowledge or information to admit or deny allegations regarding LWV's activities or expenditures and, on that basis, denies those allegations. Denies that Defendant has violated any law with respect to LWV (or its members) or caused any injury to LWV (or its members) and denies this paragraph in all other respects.

27. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, denies.

American GI Forum of Texas, Inc.

28. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant denies that AGIF is entitled to any relief and denies that Defendant has violated any law with respect to AGIF or its members. Defendant lacks sufficient knowledge or information to admit or deny any

factual allegation in the balance of this paragraph requiring a response and, on that basis, denies.

29. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant lacks sufficient knowledge or information to admit or deny and, on that basis, denies.

30. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant lacks sufficient knowledge or information to admit or deny allegations regarding AGIF's activities or expenditures and, on that basis, denies those allegations. Denies that Defendant has violated any law with respect to AGIF (or its members) or caused any injury to AGIF (or its members) and denies this paragraph in all other respects.

31. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, denies.

Defendants

32. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits that the Secretary of State is

Texas's chief election officer pursuant to Texas Election Code § 31.001, that she has such responsibilities as are provided by the laws of this State, and that Plaintiffs have named her a Defendant in this lawsuit. Admit that the Secretary provides guidance regarding election procedures to county election officials in Texas's 254 counties, including county voter registrars. Otherwise, denies.

33. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits that Trudy Hancock is the Brazos County Elections Administrator and admits insofar as the Complaint speaks for itself as to Plaintiffs' allegations in this lawsuit. Defendant lacks sufficient knowledge or information to admit or deny the balance of this paragraph and, on that basis, denies.

34. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits that Perla Lara is the City of McAllen, Texas Secretary and admits insofar as the Complaint speaks for itself as to Plaintiffs' allegations in this lawsuit. Defendant otherwise, denies.

## **FACTS**

### **Current Mail-in Ballot Procedures**

35. Admits insofar as the cited statutes and website speak for themselves. Otherwise, denies.

36. Admits insofar as the cited statutes speak for themselves. Otherwise, denies.

37. Admits insofar as the cited statutes and website speak for themselves. Otherwise, denies.

38. Denies that, where a signature verification committee is established, “the SVC will perform the [mail-in ballot] signature reviews rather than the EVBB.” Defendant lacks sufficient knowledge or information to admit or deny that “SVCs are usually established in larger counties, but also appear in many smaller ones.” Admits insofar as the cited statutes speak for themselves. Otherwise, denies.

39. Admits insofar as the cited statutes speak for themselves. Otherwise, denies.

40. Admits insofar as the Texas Election Code speaks for itself. Otherwise, denies.

41. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits insofar as Texas Election Code § 87.041(b)(2) speaks for itself. Otherwise, denies.

42. This paragraph contains conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, denies.

43. Denies.

44. Admits insofar as the cited statute speaks for itself. Otherwise, denies.

45. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits insofar as the cited statutes speaks

for themselves. Otherwise, denies.

46. Denies.

47. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits insofar as the cited statute speaks for itself. Otherwise, denies.

48. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant lacks sufficient knowledge or information to admit or deny and, on that basis, denies.

49. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, denies.

50. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits insofar as the Texas Election Code speaks for itself. Otherwise, denies.

51. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits insofar as the Texas Election Code

speaks for itself. Otherwise, denies.

## **CAUSES OF ACTION**

### **COUNT ONE**

52. Defendant repeats and reaffirms her answers to each and every allegation in the paragraphs above and incorporates the same herein as though fully set forth.

53. Admits insofar as the cited provision speaks for itself.

54. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response.

55. Denies.

56. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits insofar as the Texas Election Code speaks for itself, and denies any characterization that Defendant has the authority to adopt a procedure that conflicts with the Election Code's provisions, including those governing mail-in ballots.

57. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, denies.

58. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, denies.

59. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits insofar as the cited statute speaks for itself. Otherwise, denies.

60. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, denies.

61. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits insofar as the Complaint speaks for itself as to Plaintiffs' allegations in this lawsuit. Otherwise, denies.

## **COUNT TWO**

62. Defendant repeats and reaffirms her answers to each and every allegation in the paragraphs above and incorporates the same herein as though fully set forth.

63. Admits insofar as the cited provision speaks for itself.

64. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits insofar as the cited authorities speak for themselves. Otherwise, denies.

65. This paragraph contains assertions of law, conclusory statements, and/or

argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits insofar as the cited authorities speak for themselves. Otherwise, denies.

66. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response.

67. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, denies.

68. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, denies.

69. Denies.

70. Denies.

### **COUNT THREE**

71. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits insofar as the cited authority speaks for itself, and notes that *Bush v. Gore*, 531 U.S. 98 (2000), was expressly limited to its facts. Otherwise, denies.

72. Denies.

73. Denies.

74. Denies.

## **COUNT FOUR**

75. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits insofar as the cited laws speak for themselves and insofar as the Complaint speaks for itself as to the Plaintiffs in this lawsuit and the nature of their allegations. Denies that CTD is entitled to any relief herein; denies any violations of the law as to CTD or its members; and denies this paragraph to the extent it contains any further allegation of fact requiring a response.

76. Admits insofar as the cited provisions speak for themselves.

77. Admits insofar as the cited provisions speak for themselves.

78. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits insofar as the cited provisions speak for themselves. Otherwise, denies.

79. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits that Defendant receives federal funds.

80. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, admits insofar as the cited provisions speak for themselves. Otherwise, Defendant lacks sufficient knowledge or information to admit or deny and, on that basis, denies.

81. This paragraph contains assertions of law, conclusory statements, and/or argument, which do not require a response. To the extent that this paragraph contains any allegation of fact requiring a response, Defendant lacks sufficient knowledge or information to admit or deny and, on that basis, denies.

82. Denies.

83. Denies.

### **PRAAYER FOR RELIEF**

Denies that Plaintiffs are entitled to any relief, denies that Defendant has violated any law with respect to Plaintiffs, and denies in all other respects.

### **DEFENSES AND AFFIRMATIVE DEFENSES**

1. Defendant asserts the defense of Eleventh Amendment immunity to all claims to which it applies.
2. Defendant asserts the defense of sovereign immunity to all claims to which it applies.
3. Defendant asserts that res judicata prevents recovery on Plaintiffs' claims.

4. Defendant asserts that Plaintiffs lack standing.
5. Defendant asserts that the Court lacks subject-matter jurisdiction over Plaintiffs' claims.
6. Defendant asserts that Plaintiffs have failed to plead facts sufficient to state a claim upon which relief may be granted.
7. Defendant asserts that issue preclusion bars recovery on all claims to which it may apply.
8. Defendant asserts that claim preclusion bars recovery on all claims to which it may apply.
9. Defendant asserts that Plaintiffs' claim are moot.
10. Defendant asserts the affirmative defense of statute of limitations for any claims falling outside the applicable limitations period.
11. Defendant asserts that Plaintiff has not exhausted administrative and/or statutory prerequisites to suit.
12. Defendant asserts the defense of misrepresentation.
13. Defendant reserves the right to add additional defenses and affirmative defenses to the claims alleged against them as the development of the factual circumstances in this case may warrant.

Respectfully submitted,

Kevin D Pagan  
City Attorney of McAllen, Texas

/s/ Isaac J Tawil  
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**ATTORNEYS FOR DEFENDANT  
CITY OF McALLEN, TEXAS**

**CERTIFICATE OF SERVICE**

I certify that that on January 10, 2020 this document was filed electronically via the Court's CM/ECF system, causing electronic service upon all counsel of record.

/s/ Isaac J Tawil  
Isaac Tawil